

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 609

Introduced by Senator Wolk

February 22, 2013

An act to amend Sections 9714, 9714.5, and 9732 of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 609, as amended, Wolk. Office of the State Long-Term Care Ombudsman.

Existing law, as part of the Mello-Granlund Older Californians Act, establishes the Office of the State Long-Term Care Ombudsman, under the direction of the State Long-Term Care Ombudsman, in the California Department of Aging. Existing law provides for the Long-Term Care Ombudsman Program under which funds are allocated to local ombudsman programs to assist elderly persons in long-term health care facilities and residential care facilities by, among other things, investigating and seeking to resolve complaints against these facilities. Existing law requires the office to solicit and receive funds, gifts, and contributions to support the operations and ~~program~~ *programs* of the office.

This bill would require the office to deposit those funds into the Long-Term Care Ombudsman Program Improvement Act Fund, and would continuously appropriate those funds for the purpose of supporting the operations and programs of the office.

Under existing law, anyone who willfully interferes with a lawful action of the office is subject to a civil penalty of no more than \$1,000,

to be assessed by the Director of Aging, who is required to initiate the action, upon request of the office, to collect the penalties.

This bill would increase the maximum civil penalty amount to ~~\$2,000~~ \$2,500 for each incident, and would instead require the director to initiate an action if the penalty is not paid within 30 days of the assessment. This bill would create the Access to Facilities Account, and require those penalties to be deposited into the account to, upon appropriation by the Legislature, ~~support the operations and programs of~~ be available to the office, and require no less than 75% of that amount to be dedicated to fund services at local ombudsman programs.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9714 of the Welfare and Institutions Code
2 is amended to read:

3 9714. The office shall solicit and receive funds, gifts, and
4 contributions to support the operations and programs of the office.
5 The office shall not solicit or receive any funds, gifts, or
6 contributions if the solicitation or receipt would jeopardize the
7 independence and objectivity of the office. Notwithstanding Section
8 13340 of the Government Code, the office shall deposit funds
9 received pursuant to this section into the Long-Term Care
10 Ombudsman Program Improvement Act Fund that is hereby
11 continued in existence and continuously appropriated, without
12 regard to fiscal year, for the purpose of supporting the operations
13 and programs of the office.

14 SEC. 2. Section 9714.5 of the Welfare and Institutions Code
15 is amended to read:

16 9714.5. (a) The office may form a foundation eligible to
17 receive tax-deductible contributions to support the operations and
18 programs of the office and the operations of the foundation. The
19 foundation shall not solicit or receive any funds, gifts, or
20 contributions if the solicitation or receipt would jeopardize the
21 independence and objectivity of the office or foundation.

22 (b) The foundation formed pursuant to this section shall be under
23 the direction and management of a five-member board of directors.
24 One member shall be appointed by the Speaker of the Assembly,
25 one member shall be appointed by the Senate Committee on Rules,

1 and three members shall be appointed by the Governor. The
2 members of the board shall each be experienced in the
3 management, promotion, and funding of nonprofit charitable
4 organizations.

5 (c) The board shall select from among its members a chair, a
6 vice chair, and any other officers as it deems necessary.

7 (d) The members of the board shall serve without compensation,
8 but shall be reimbursed for all necessary expenses actually incurred
9 in the performance of their duties as directors.

10 (e) Three members of the board shall constitute a quorum for
11 the purpose of conducting the board's business.

12 (f) By March 1 of each year, the board shall determine the
13 amount of funds to be allocated from the foundation to the office
14 for the support of the operations and programs of the office and
15 the operations of the foundation. Foundation funds may only be
16 expended for the support of the operations and programs of the
17 office and the operations of the foundation.

18 (g) The members of the board shall be free from conflicts of
19 interest and shall be subject to the same conflict of interest
20 provisions that apply to the State Ombudsman under Section
21 3058g(f)(3) of Title 42 of the United States Code.

22 SEC. 3. Section 9732 of the Welfare and Institutions Code is
23 amended to read:

24 9732. (a) Any person who willfully interferes with any lawful
25 action of the office shall be subject to a civil penalty of no more
26 than two thousand *five hundred* dollars ~~(\$2,000)~~ (\$2,500) for each
27 incident. The civil penalty shall be assessed by the director. If the
28 penalty is not paid within 30 days of the assessment, the director
29 shall initiate an action to collect the penalties in the jurisdiction in
30 which the facility is located.

31 (b) All civil penalties collected by the department pursuant to
32 this section shall be deposited into the Access to Facilities Account,
33 which is hereby created within the Special Deposit Fund under
34 Section 16370 of the Government Code. Funds in this account
35 shall be available, upon appropriation, ~~to support the operations~~
36 ~~and programs of the office, and no less than 75 percent of the~~
37 ~~penalties collected shall be dedicated to fund services at local~~
38 ~~ombudsman programs.~~

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